

# **Exhibit E**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

Tony Fisher, aka )  
Kellie Rehanna, )  
Plaintiff, )  
vs. )  
Federal Bureau of )  
Prisons, et al., )  
Defendants. )

Case No. 4:19CV1169  
Sara Lioi, J.

- - -

Deposition of Jennifer Eplin, a witness  
herein, called on behalf of the plaintiff for oral  
examination, pursuant to the Federal Rules of Civil  
Procedure, taken before Karen A. Toth, Notary Public  
in and for the State of Ohio, via Zoom, on Friday,  
July 23, 2021, commencing at 9:33 a.m.

- - -

1            regards to the WPATH?

2     A       No.

3     Q       Okay. Is it considered to be the standard  
4            that the BOP uses on the issue of  
5            gender-affirming treatment and surgery in an  
6            instructional setting?

7     A       No.

8     Q       What weight, if any, do you believe the WPATH  
9            has regarding the issue of gender-affirming  
10          surgery and treatment in an institutional  
11          setting?

12    A       It's a document that we use for information,  
13          but it's not a requirement in the BOP.

14    Q       Is that your understanding; it's not a  
15          requirement?

16    A       Yes.

17    Q       Are there any documents that support your  
18          understanding that the WPATH is not  
19          incorporated into the BOP's rules and  
20          regulations?

21    A       I don't understand your question.

22    Q       Right. I'll go again. Are you referring to  
23          any document that would indicate that the  
24          WPATH is not incorporated into the BOP as  
25          rules and regulations?

1 review so that all of the staff would have  
2 time to look at it before we got to the formal  
3 Transgender Executive Council where we had the  
4 multi-disciplinary meeting.

5 Q And it's fair to say that Kellie over the  
6 years has been reviewed by the TEC on four or  
7 five occasions, that you're aware of?

8 A I don't specifically recall.

9 Q Do you remember the most recent one?

10 A Yes.

11 Q And was that date May the 17th of 2021?

12 A I don't recall.

13 Q Okay. Do you recall it was in May?

14 A No, I don't recall the specific month.

15 Q Do you recall what the disposition was?

16 A We recommended further mental health treatment  
17 and programming.

18 Q And specifically what type of mental health  
19 treatment, what type of program?

20 A Sex offender treatment.

21 Q And why did you do that?

22 A I believe the council recommended that in part  
23 because of a judicial recommendation and under  
24 the lens of safety for both Inmate Fisher and  
25 other inmates prior to transfer to a female

1 facility due to her sex offense.

2 Q To the best of your knowledge, has she ever  
3 had any discipline problems or health and  
4 safety problems at Elkton?

5 A Not that I recall.

6 Q And for the record, Elkton is a male facility?

7 A Yes.

8 Q And what additional mental health treatment  
9 did the TEC recommend?

10 A Sex offender treatment.

11 Q Was that the only requirement that was  
12 recommended?

13 A To the best of my recollection it was sex --  
14 or mental health treatment and programming.

15 Q Do you know what her hormone levels were like  
16 on May the 17th of 2021?

17 A I don't recall.

18 Q Are you aware that on June 15th of 2021 her  
19 estrogen level was 252?

20 A No.

21 Q So it's fair to say you don't review her  
22 particular file on a regular basis, you only  
23 review it when it comes before the TEC?

24 MR. FELDON: Object to the form.

25 Q Did you look at her particular file before

1 answer.

2 MR. ICOVE: Thank you.

3 A I don't know. We've had inmates that we've  
4 transferred to female institutions that were  
5 biologically male and then they've asked to go  
6 back to male institutions. We've -- I mean,  
7 each individual is different. I don't know.  
8 I don't think that that's something that I can  
9 say for her.

10 Q And it's fair to say that you're telling us  
11 today that you can't answer that question in  
12 regards to others, or just in general?

13 A If I'm understanding the question correctly, I  
14 mean, I don't know for a transperson how that  
15 is to transition in the correctional  
16 environment.

17 Q My question is in general, regardless of  
18 whether it's Kellie or not. If a person who's  
19 a male puts herself out to be female in a male  
20 institution, isn't that in and of itself  
21 pretty difficult to do for that person?

22 MR. FELDON: Objection.  
23 Speculation. You can answer.

24 A It would be difficult in either institution I  
25 can assume.

1 gender-affirming transfer so that they can see  
2 is this something that they want to do. We  
3 want a good outcome for them before we make a  
4 life changing surgery, a surgery that we can't  
5 come back from. As I just stated, but I don't  
6 think I formulated it well, we've had inmates  
7 that we transferred before to gender-affirming  
8 facilities that have been requested to go back  
9 to the biological sex facility.

10 So we do that gender-affirming surgery  
11 to ensure that we have the best possible  
12 outcome for the inmates.

13 Q And if you did have an inmate who  
14 hypothetically have gender-affirming surgery  
15 prior to being transferred back to a male  
16 facility, would that create any concerns for  
17 BOP?

18 A Yes.

19 MR. ICOVE: Objection.

20 MR. FELDON: What grounds?

21 MR. ICOVE: Objection. That's  
22 all. Go ahead.

23 MR. FELDON: Okay.

24 Q Yeah, if you had an individual with that  
25 gender-affirming surgery and for whatever

1 State of Ohio, )  
 2 County of Cuyahoga, ) SS: CERTIFICATE

3 I, Karen A. Toth, Notary Public in and for the  
 4 State of Ohio, duly commissioned and qualified, do  
 5 hereby certify that the within named witness,  
 6 Jennifer Eplin, was by me first duly sworn to  
 7 testify the truth, the whole truth, and nothing but  
 8 the truth in the cause aforesaid; that the testimony  
 9 then given by her was by me reduced to  
 10 stenotypy/computer in the presence of said witness,  
 11 afterward transcribed, and that the foregoing is a  
 12 true and correct transcript of the testimony so  
 13 given by her as aforesaid.

14 I do further certify that this deposition was  
 15 taken at the time and place in the foregoing caption  
 16 specified and was completed without adjournment

17 I do further certify that I am not a relative,  
 18 counsel, or attorney of either party, or otherwise  
 19 interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my  
 21 hand and affixed my seal of office at Cleveland,  
 22 Ohio on this 5th day of August, 2021.

23 *Karen A. Toth*

24 Karen A. Toth, Notary Public in  
 25 and for the State of Ohio.  
 My Commission expires May 6, 2023

